

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

THERESA ROMANO,
L.R. BLAKE TRUST and
CONCETTA ROMANO,

Plaintiffs,

V.

ARBELLA MUTUAL
INSURANCE COMPANY,

Defendant.

CIVIL ACTION NO. 03-12626MLW


AFFIDAVIT OF LEWIS C. EISENBERG

I, Lewis C. Eisenberg, hereby depose and state as follows:

1. I am counsel for Defendant Arbella Mutual Insurance Co. ("Arbella") in the above-captioned action.
2. The Durable Power of Attorney document attached as Exhibit A to this affidavit is a true and accurate copy of that document.
3. The transcript of the examination under oath of Theresa Romano, dated July 24, 2002, and its exhibits are attached as Exhibit B to this affidavit and are true and accurate copies of those documents.
4. The homeowner's insurance policy document designated by specimen number HO 00 03 04 91 in the top right corner and attached as Exhibit C to this affidavit is a true and accurate copy of the language contained in the fire insurance policy (No. 83217400000) issued to the L.R. Blake Trust on August 5, 2001.

5. The homeowner's insurance policy document designated by specimen number HO 00 04 04 91 in the top right corner and attached as Exhibit D to this affidavit is a true and accurate copy of the language contained in the fire insurance policy (No. 03234400001) issued to Theresa Romano on October 17, 2001.
6. Attached is the Boston Fire Department Form 161-R Field Incident Report pertaining to the investigation of the fire (Exhibit E).
7. A demand was made of the Plaintiffs to provide requested financial documents and other materials in Schedule A of documents requested of them at the time of the examination under oath. The Plaintiffs and their attorney have not provided the documents nor given a basis for not providing the documents. I requested said documents in Schedule A of the examination under oath notice (see ¶ 2 above) and at the examination under oath itself (see ¶ 2 above).
8. That demand was followed by my letters of September 9, 2002 (a true and accurate copy of which is attached as Exhibit F to this affidavit) and another letter of October 1, 2002 (a true and accurate copy of which is attached as Exhibit G to this affidavit) sent to Plaintiffs' attorney, Mr. Dane Shulman. Prior to the disclaimer, the Plaintiffs and their counsel did not respond to these letters and to date, have not provided the requested documents.
9. As a result thereof, the disclaimer letter of March 7, 2003, a true and accurate copy of which is attached as Exhibit H to this affidavit, was sent to counsel for the Plaintiffs.

Signed under the pains and penalties of perjury this 3 day of August, 2004.


LEWIS C. EISENBERG, ESQ.

COMMONWEALTH OF MASSACHUSETTS

Docket, ss.

Dated: 8/3/04

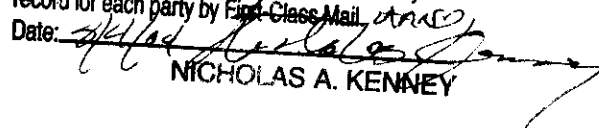
Then personally appeared before me the above-named LEWIS C. EISENBERG, ESQ. and signed the within as his free act and deed.


NOTARY PUBLIC
My Commission Expires: 11/10/06



CERTIFICATE OF SERVICE

I hereby certify that on this date a true copy of the above document was served upon the attorney of record for each party by First Class Mail.

Date: 
NICHOLAS A. KENNEY